



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/160336

PRELIMINARY RECITALS

Pursuant to a petition filed August 28, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on October 14, 2014, at Racine, Wisconsin.

The issue for determination is whether Petitioner's FoodShare allotment has been correctly determined.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Rhonda Kramer

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner filed this appeal to contest the reduction in his FoodShare allotment effective September 1, 2014. The allotment dropped from \$118.00 to \$75.00.
3. Petitioner submitted a six month report form and income verification in late July and August 2014. The employer income verification form indicates that Petitioner was employed at \$8.75 per hour,

worked 30 hours per week and is paid biweekly. This is \$1128.75 per month (\$8.75 x 30 x 4.3 weeks per month). Case notes indicate that on September 8, 2014 Petitioner reported a decrease in income.

4. Petitioner's household size is 1. He is a full time student but does work at least 20 hours per month so his eligibility was not an issue here.
5. In determining Petitioner's FoodShare allotment the agency had been crediting Petitioner with the following deductions: a standard deduction of \$152.00, a shelter deduction of \$374.50 based on a standard utility allowance of \$450.00 and shelter costs of \$300.00.

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

Once a household passes the gross income test the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$152 per month for a household of 1-3 persons, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) Shelter and utility expenses deduction – the utility allowance is a variable based on a number of factors but the ultimate deduction equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.1 and 8.1.3.*

In reviewing the calculation based on the available evidence, I cannot note any errors. Petitioner, however, notes that he is a full time student and that his hours and income dropped with the start of the new school year. He did report that to the agency on September 8, 2014. When a change occurs that could increase benefits the change reported in one month is effective in the month after the reported change. *FSH, §6.1.3.3.* Petitioner's FoodShare did increase to \$81.00 for October 2014 per the agency staffer at this hearing. As that occurred after the appeal filed here, it was not an issue for this hearing but Petitioner may file another appeal if he does not believe that the October 2014 benefit has been correctly calculated.

CONCLUSIONS OF LAW

That the available evidence is sufficient to demonstrate that the agency has correctly determined Petitioner's FoodShare allotment for September 2014.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new

evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 4th day of November, 2014

David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 4, 2014.

Racine County Department of Human Services
Division of Health Care Access and Accountability